OLR Bill Analysis

sSB 909 (File 113, as amended by Senate "A")*

AN ACT CONCERNING UNEMPLOYMENT CONFORMITY.

SUMMARY:

This bill changes the state's unemployment law by (1) imposing a financial penalty on unemployment claimants whose fraudulent acts resulted in benefit overpayments and (2) prohibiting any relief from unemployment charges against an employer whose failure to adequately respond to a request for information led to a claimant's overpayment. It also opens the state's shared-work program to all employers covered under the unemployment law. These changes help bring the state's unemployment law into conformance with new federal requirements.

The bill also expands the ways the labor commissioner can recover unemployment benefit overpayments. If a claimant received overpayments through fraud, willful misrepresentation, or willful nondisclosure, existing law allows the commissioner to seek repayment through withholding the claimant's state income tax refund. If the commissioner cannot recover the fraudulent overpayments through the claimant's state income tax refund, the bill allows her to seek repayment through withholding the claimant's federal tax refund, under applicable federal law. The bill also allows the commissioner to seek a withholding of a state income tax refund for claimants who fail to repay accidental overpayments.

The bill additionally changes the quarterly statements the labor commissioner must provide to employers for combined wage claims (for claimants who worked in multiple states) paid under the unemployment law of another state. It requires the statement to show the benefits charged against the employer as quarterly totals instead of weekly totals, as under current law.

*Senate Amendment "A" opens the state's shared-work program to all employers covered by the unemployment law.

EFFECTIVE DATE: October 1, 2013

FEDERAL CONFORMITY

Fraudulent Overpayment Penalty

The federal Trade Adjustment Assistance Extension Act of 2011 (TAAEA) requires states to penalize an unemployment claimant at least 15% of an erroneous payment if the claimant's fraudulent acts resulted in an unemployment overpayment.

Under current state law, a claimant who knowingly made a false statement or representation, or knowingly failed to disclose a material fact to obtain or increase benefits (regardless of whether the claimant received benefits), must repay any overpaid amount and is penalized by losing up to 39 weeks of eligibility for unemployment benefits. The bill (1) limits the penalty to instances where an overpayment has been made and (2) changes the penalty to 50% of the overpayment for a first offense and 100% of the overpayment for subsequent offenses, rounded to the nearest dollar. This is applicable to overpayments made on or after October 1, 2013. As under current law, the claimant must also repay the overpaid amount and the penalty is not limited to the claimant's single benefit year.

The bill allocates 35% of the penalty to the state's Unemployment Compensation Trust Fund and 65% to the state's Employment Security Administrative Fund.

Employer Relief from Charges

TAAEA also prohibits states from relieving an employer of any unemployment charges if an unemployment overpayment was due to the employer's failure to timely or adequately respond to a state agency's request for information.

For overpayments made on or after October 1, 2013, the bill requires an employer to be proportionally charged for each week of an overpayment if the labor commissioner determines that an employer's failure to timely or adequately respond to a request for information caused the overpayment.

Under current law, an employer who fails to appear at a hearing or submit a timely written response can be charged for a claimant's benefits for up to six weeks after the week in which the employer files an appeal, regardless of whether the case involved an overpayment. The bill (1) limits this liability to overpayment determinations when an employer fails to appear for a hearing or submit a timely response and (2) requires that the employer be charged with its proportionate share of benefits paid to the claimant until an appeal decision is issued, instead of current law's six week limit on charges.

Shared-Work Program

The federal Middle Class Tax Relief and Job Creation Act of 2012 requires states to allow all employers to participate in their "shared work" programs. These programs allow (1) participating employers to reduce employees' hours, rather than laying them off, and (2) affected employees to collect partial unemployment compensation benefits to supplement their reduced wages.

Under current law, the state's shared-work program is available to contributing employers (those who pay unemployment taxes), but not to reimbursing employers (those who reimburse the unemployment system for benefits paid to former employees). The bill opens the program to all employers subject to the unemployment law. It also specifies that applicable federal law prevails in any conflict with a provision of the state's shared-work program's law or regulations.

BACKGROUND

Unemployment Charges

By law, employers are "charged" for the amount of unemployment benefits their former employees receive. The employer's charge is proportional to how much of the former employee's total wages the employer paid over the year before the employee claimed benefits (e.g. an employer who paid 20% of a former employee's total wages will be charged for 20% of the benefits the employee receives). These charges are then used to compute the employer's experience rate and quarterly tax contributions (for most private sector employers) or direct reimbursement due (for public sector employers).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute				
Yea	11	Nay	0	(03/07/2013)